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New York

President: Mr. Al-Nasser ..... (Qatar)

The meeting was called to order at 3.10 p.m.

Agenda item 75

Report of the International Criminal Court

Note by the Secretary-General (A/66/309)

Report of the Secretary-General (A/66/333)

The President: It is now my great honour to welcome to the United Nations Mr. Sang-Hyun Song, President of the International Criminal Court, and give him the floor.

Mr. Sang-Hyun Song (International Criminal Court): I am honoured to address this forum for the third and final time in my current mandate as President of the International Criminal Court (ICC). This has been a year of significant developments for the ICC. With two new investigations and several new cases, the Court is busier than ever. At the same time, trials have progressed well and the first verdicts are expected very soon.

I am delighted to say that international support for the ICC has continued to grow. Five States have newly joined the Rome Statute, bringing the number of States parties to 119. While the ICC is an independent organization, its relationship and cooperation with the United Nations have continued to be as vital as ever, and it is my great pleasure today to present the Court's seventh annual report to the General Assembly (see A/66/309).

Today I would like to brief the Assembly on the main developments at the ICC and highlight the relevance of the Court's work in support of the global efforts to protect human rights and promote the rule of law.

Let me first update the Assembly on the main developments on the judicial front. The number of situations under ICC investigation has risen from five to seven during the past year. On 26 February, the Security Council, in response to the conflict in the Libyan Arab Jamahiriya and what it called the gross and systematic violation of human rights, unanimously adopted resolution 1970 (2011), which, among other measures, referred the situation in Libya since 15 February 2011 to the Prosecutor of the ICC. Following the Prosecutor's investigation, the Court's Pre-Trial Chamber issued warrants of arrest against Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah al-Senussi on 27 June.

Since the filing of the ICC's written report, the Court has authorized investigations into a seventh situation, that of Côte d'Ivoire. While not a State party to the Rome Statute, Côte d'Ivoire accepted the ICC's jurisdiction in 2003, and President Ouattara confirmed that decision in December, pledging full cooperation with the Court. Following a request by the Prosecutor, the ICC's Pre-Trial Chamber authorized, on 3 October 2011, an investigation into alleged crimes committed since 28 November 2010, in the wake of presidential elections in Côte d'Ivoire.

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The ICC's first trial concluded in August with closing statements in the case against Thomas Lubanga Dyilo, who had been charged with the use of child soldiers in the Democratic Republic of the Congo. Judgement in this case is expected before the end of the year.

The presentation of evidence is nearing its conclusion in the second trial arising from the situation in the Democratic Republic of the Congo concerning charges against Germain Katanga and Mathieu Ngudjolo Chui for the use of child soldiers, rape, murder and other crimes. A judgement is likely to be issued in the first half of next year.

The ICC's third trial opened in November last year against Jean-Pierre Bemba, who is charged as a military commander with rape, murder and pillaging allegedly committed in the Central African Republic. The trial has progressed well, and the prosecution case is at an advanced stage.

We also have a fourth trial under preparation, stemming from the situation in Darfur, Sudan. War crimes charges in connection with an attack on an African Union mission were confirmed against Abdallah Banda and Saleh Jerbo in March. The process of disclosure of evidence in this particular case illustrates some of the many challenges the ICC faces in order to secure a fair trial. The evidence is required to be translated into Zaghawa, as the accused do not fully understand and speak any other language. However, there are virtually no professional translators or interpreters for Zaghawa, and the ICC has had to hire and train native speakers to reach the required level of proficiency to provide language support.

The proceedings on the situation in Kenya have progressed significantly in the past year. There are two cases, each involving three senior persons alleged to be responsible for murder, persecution and other crimes in connection with the violence that erupted in Kenya following elections held in December 2007. All six individuals complied with summonses issued by the Pre-Trial Chamber in March and voluntarily came to the Court, first in April for an initial appearance, and again in September for more substantive hearings on the confirmation of charges. In January at the latest, the Pre-Trial Chamber will issue its rulings on whether the cases should proceed to trial.

In the context of the Kenya situation, the ICC set a legal precedent by dismissing the Kenyan Government's challenge against the admissibility of the two cases. The Pre-Trial Chamber and the Appeals Chamber both held that the Government of Kenya had failed to provide sufficient evidence to substantiate that it was investigating the six suspects for the crimes alleged in the proceedings at the ICC.

A decision on the confirmation of charges is also pending in the case against Callixte Mbarushimana, charged with attacks on the civilian population allegedly committed in the Kivu region of the Democratic Republic of the Congo in 2009. He was arrested last year by the French authorities, and I thank France for this valuable cooperation with the ICC.

In addition to the seven investigations, the Office of the Prosecutor is conducting preliminary examinations regarding Afghanistan, Colombia, Georgia, Guinea, Honduras, Nigeria, Palestine and the Republic of Korea, as well as receiving information concerning many other countries. Such situations, however, do not necessarily evolve into formal ICC investigations, particularly if the competent national authorities investigate the crimes and prosecute the alleged offenders.

When I spoke before the Assembly last year (see A/65/PV.39), I expressed my deep concern over the fact that the ICC's arrest warrants for Joseph Kony and three other alleged commanders of the Lord's Resistance Army had been outstanding for more than five years in the situation in Uganda. Unfortunately, that remains the case, and the same applies to Bosco Ntaganda in the situation in the Democratic Republic of the Congo. In the situation in Darfur, the arrest warrants against President Al-Bashir, as well as those against Ahmad Harun and Ali Kushayb, remain outstanding.

This is deeply distressing for the victims as well as the international community. I implore States to redouble their efforts to bring the persons in question to justice. I also wish to recall that the Security Council has urged all Member States to cooperate with the ICC with respect to the situation in Darfur, Sudan, and the situation in Libya.

Explaining to victims why some arrest warrants have not yet been implemented is one of the challenging tasks of the ICC's outreach programme. Every week, often in remote towns and villages of the situation countries, outreach meets with hundreds of people, making the process of justice more accessible

and understandable to those affected by the crimes under the Court's jurisdiction. Special sessions are organized for groups consisting of women and children. I have personally had the privilege of participating in outreach activities in the Democratic Republic of the Congo and Uganda. I was deeply moved by the victims' struggle to rebuild their lives, and by their cries for relief and justice.

The concern for the plight of victims is reflected in the various ways in which victims are empowered by the Rome Statute as participants in judicial proceedings, as recipients of reparations following a Court conviction, and as beneficiaries of victims' assistance provided by the Trust Fund for Victims that is associated with the ICC.

Working in the situation countries, the ICC informs victims about their rights and helps them turn the possibilities offered by the Rome Statute into concrete action. During the past 12 months alone, the ICC has received more than 10,000 victims' applications for participation or reparation. Legal assistance provided by the ICC has made it possible for thousands of victims to participate in the proceedings through their lawyers. More than four years of victims' assistance in northern Uganda and the Democratic Republic of the Congo have seen the Trust Fund for Victims mature into a solid institution. By recognizing the particular needs of victims of the most serious crimes, for instance for reconstructive surgery and trauma-based counselling, the Trust Fund has been able to articulate a truly human dimension to the process of international criminal justice.

As the ICC's first judgments are drawing closer, we may in the coming year see also the first-ever judicial decisions by the ICC on reparations to victims. When that moment comes, the Trust Fund for Victims will have an important role to play, both as an implementing agency for Court-ordered reparations and as a possible source of complementary financing of reparations awards, in the case that a convicted person is found indigent.

Five countries have acceded to or ratified the Rome Statute in 2011, which is more than during any single year since 2003. I would like to take this opportunity to extend a warm welcome to Grenada, Tunisia, the Philippines, Maldives and Cape Verde, which have taken that important step during the last six months. I thank all those that facilitate informed discussions about the Rome Statute in different parts of the world, for instance Qatar, which hosted the first regional conference on the ICC for the Middle East and North Africa region in May.

Many important decisions are carried out by the States parties, including amendments to the Rome Statute and the election of the highest officials of the Court. The forthcoming session of the Assembly of States Parties in December here in New York will be of particular significance, because for the first time since the Court's establishment, both a prosecutor and six new judges will be elected.

An important change will also occur at the helm of the Assembly of States Parties, which will receive a new President. I would like to pay tribute to Ambassador Christian Wenaweser, the Permanent Representative of Liechtenstein to the United Nations, who has provided excellent leadership of the Assembly for the past three years, and to welcome Ambassador Tiina Intelmann of Estonia, who has been recommended by the Bureau of the Assembly as his successor.

A month ago, the Secretary-General pronounced from this rostrum that "[t]o prevent violations of human rights, we must work for the rule of law and stand against impunity" (*A/66/PV.11, page 2*). I wholeheartedly agree with this statement, which highlights the relevance of the Rome Statute and the ICC to wider international efforts to protect human rights and promote the rule of law. Indeed, the preamble to the Rome Statute sets out the Court's objectives, several of which overlap with the purposes of the United Nations. The common objectives of these two institutions include the prevention and punishment of serious international crimes, the maintenance and restoration of international peace and security, and a guarantee of lasting respect for and enforcement of international law.

The ICC is deeply grateful for the invaluable cooperation we continue to receive from the United Nations in a wide variety of areas ranging from security and field operations to the exchange of information with and testimony of United Nations officials. I greatly appreciate the mainstreaming of ICC issues through the United Nations system, and the Organization's significant support for strengthening national capacity to address atrocity crimes in

accordance with the principle of complementarity enshrined in the Rome Statute.

I warmly welcome the increased focus that the United Nations is placing on the rule of law and justice through regular reports and discussions here in the General Assembly and the Security Council. I am optimistic that the proposed high-level meeting on the rule of law to be held during the sixty-seventh session of the General Assembly will give these discussions new impetus.

The United Nations and the international community have recognized that justice is an integral element of conflict resolution. In his 2009 report on mediation, the Secretary-General stated that "[w]hen conflicts lead to gross violations of human rights and international humanitarian law, peace and justice are indivisible" (*S/2009/189, para. 35*). The report cautioned that ignoring the administration of justice leads to a culture of impunity that will undermine sustainable peace and recognized that when

> "the jurisdiction of the International Criminal Court is established in a particular situation, then, as an independent judicial body, the Court will proceed to deal with it in accordance with the relevant provisions of the Rome Statute and the process of justice will take its course" (*ibid., para. 37*).

I call upon all actors to follow this guidance to respect the ICC's jurisdiction. if justice is to have an impact, it must follow its own rules without interference and without being subject to political considerations.

On 1 July 2012, we will celebrate the Court's tenth anniversary. Coinciding with that, a new chapter will open for the ICC as the mandate of the first Prosecutor, Luis Moreno-Ocampo, comes to an end and he hands the baton to his successor. With the increasing relevance of the ICC in the international community's response to conflicts, the amount of work before the Court has grown significantly. So far, the Court has managed to cope by seeking savings and simply working harder, and I am proud that we can play such an important role in the service of the international community. However, if the expectations of us keep growing while our resources remain the same, the situation may become untenable.

I appeal to all United Nations Member States to stand united behind the international efforts to suppress the gravest crimes known to humanity. The Rome Statute is based on common values of fundamental importance: peace, security and the well-being of the children, women and men of the world. By joining this community, each State adds a brick to a wall that protects future generations from terrible atrocities.

Mr. Sefue (United Republic of Tanzania): At the outset, the African States parties wish to reaffirm their unwavering support for the fight against impunity for the most serious crimes of concern to the international community. We stress that those who are implicated in such crimes must be held accountable.

The Group would like to express its appreciation to the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for presenting the seventh annual report on the work of the Court, as submitted to the United Nations in document A/66/309. The report clearly demonstrates that the Court is a living institution that has achieved significant progress in its investigations and judicial proceedings.

The International Criminal Court is a historic development in the global struggle to advance the cause of justice and the rule of law, and to end impunity. Its creation represents a major success in international law. It seeks to foster a more peaceful and just world. It promotes respect for the rule of law. It upholds international humanitarian law and human rights.

The International Criminal Court has become an essential instrument in the prevention of horrendous crimes such as genocide, crimes against humanity and war crimes. Not only does it act as a deterrent to potential perpetrators, but its mandate ensures that persons accused of those offences are actually brought to justice in accordance with the provisions of the law.

The Court's deterrence against the most serious international crimes is beginning to be felt as it engages in greater judicial activity. As a fully functional judicial institution, the Court is making substantial progress in its work and is developing its own jurisprudence on fundamental aspects of the law. We look forward to the first verdict of the Court, which is expected to be delivered by the end of the year. The role played by the Court is indeed one of the noblest achievements of our time.

War crimes, crimes against humanity and genocide know no borders. We must therefore work

together to fight those crimes. The Rome Statute is built upon the principle that the most heinous crimes of international concern must not go unpunished. To that end, the Rome Statute affords States the opportunity to deal with cases of human rights violations under domestic law and allows the ICC to assume jurisdiction only where national judicial systems have failed, are unable or are unwilling to act. However, the primary responsibility for bringing offenders to justice remains with States. The principle of complementarity is a positive development in the quest to promote and protect human rights by ensuring that accountability prevails.

If the Court is to be effective and successful, universal ratification of the Rome Statute is fundamental. Equally important, we have to ensure that the perpetrators of the world's most egregious crimes are denied safe haven and brought to justice. We therefore need to step up our collective efforts to promote the universality of the Rome Statute.

This year two African States, Tunisia and Cape Verde, ratified the Rome Statute, bringing the number of African states that have ratified the Statute to 33. We welcome the increased ratification of the Rome Statute from different regions of the world. However, in order to reach our common goal of ensuring that perpetrators of heinous crimes are brought to justice, we must redouble our efforts and continue to work for the universal acceptance of the Rome Statute.

The ICC relies on the cooperation of its member States, international organizations and civil society in discharging its mandate. The Relationship Agreement with the United Nations has been very instrumental in the success of the activities of the Court. The African Group supports strengthened and enhanced cooperation, as provided under the Relationship Agreement.

The cooperation of the international community, the United Nations and other international and regional organizations remains vital to the success of the Court. The cooperation of the African region is especially critical. The ICC would not be the Court it is today without the valuable input, involvement and support of the majority of African States. African States were actively involved in the negotiations of the Rome Statute and have been actively involved in the work of the Court since its inception. At 33, the number of African States parties to the Rome Statute is close to 28 per cent of the 119 States parties. All six of the Court's current cases, three of which are self-referrals, are from Africa.

All of this illustrates the high regard that the region has for the protection and promotion of the rule of law. African States avail themselves of the judicial assistance provided by the Court in cases that, due to their complexity and/or political sensitivity, lend themselves to be better dealt with by the Court. It is not true that Africa is against the Court and its rationale.

It is true, nevertheless, that there is a lingering perception that relations between the ICC and African countries could be better. Perhaps even more African countries would ratify the Statute if those relations improved. Obviously, the majority of African countries are against impunity and want to see the ICC contributing to the development of a culture of good governance and respect for human rights across the continent. It is therefore important for the next Prosecutor of the ICC to prioritize the improvement of relations between the Court and the African Union. It is incumbent upon States parties to bear that in mind as they consider candidates for that important position and ensure that we elect a Prosecutor who can rise to that challenge. The future success of the Court will depend on improved relations with its supporters across Africa.

Mr. Loulichki (Morocco), Vice-President, took the Chair.

The administration of international criminal justice in Africa has precedent in the Special Court for Sierra Leone and the International Criminal Tribunal for Rwanda. Those two judicial bodies have established respect for the rule of law and have brought peace, order and stability to conflict-torn societies. In conclusion, I wish to reiterate the African Group's willingness to remain engaged in the work of the Court as we uphold the cause of ending impunity and reinforcing respect for the rule of law.

Ms. Kaukoranta (Finland): I have the honour to speak on behalf of the five Nordic countries Denmark, Iceland, Norway, Sweden and my own country, Finland.

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/66/309). I would also like to

thank Judge Sang-Hyun Song, President of the ICC, for his very informative presentation highlighting key issues in the report. Both the report and his introduction distinctly reflect the increasing activities of the Court.

The reporting period is marked by significant events for the ICC and for the global fight against impunity. In February, the Security Council used for the second time the powers granted in the Rome Statute and unanimously referred the Libyan situation to the Court. That is yet another acknowledgement of the fact that the ICC is a necessary tool in ensuring that perpetrators of international crimes are brought to justice. Recently, the Pre-Trial Chamber granted the Prosecutor's request for authorization to open investigations proprio motu into the situation in Côte d'Ivoire. The ICC is today more relevant on the international scene than ever before.

Moreover, the number of judicial proceedings, investigations and preliminary examinations is growing. That puts pressure on the Court to deliver on its core function of ensuring accountability for the most serious crimes of international concern. As the workload increases, necessary resources have to be ensured for the Court to fulfil the mandate given to it. The effective functioning of the Court is of the utmost importance for the Nordic countries.

The end of the current reporting period has also been marked by the tragic news of Judge Antonio Cassese's death. Judge Cassese was the first President of both the Special Tribunal for Lebanon and the International Criminal Tribunal for the former Yugoslavia, and he also had a long career in academia. He was one of the most prominent figures in the field of international criminal justice, and he will be sorely missed.

The Nordic countries welcome the first ratification, by San Marino, of the Kampala amendment to article 8 of the Rome Statute. The jurisdictional reach of the Court is also expanding as the number of States parties to the Statute constantly grows. As Cape Verde recently became the 119th State to join the Statute, the goal of universal ratification is yet one step closer. The Nordic countries also warmly welcome to the ICC family Seychelles, Saint Lucia, the Republic of Moldova, Grenada, Tunisia, the Philippines and Maldives, which have all ratified the Rome Statute since the beginning of the reporting period.

The Court is not, however, able to carry out its mandate without strong cooperation from States. It is a very worrying development indeed that the number of outstanding arrest warrants is also growing. We would like once more to recall the legal commitment of States parties to cooperate with the Court and to respect the obligations of the Rome Statute.

Similarly, in the Darfur situation we call on all States, and the Sudanese authorities in particular, to cooperate fully with the Court and to comply with their legal obligations under Security Council resolution 1593 (2005). We would also encourage the Security Council to consider measures that would ensure compliance with that resolution.

As far as the cooperation extended by the United Nations to the Court is concerned, the Nordic countries have taken note with great satisfaction of the various forms that such cooperation has taken, as detailed in the report before us.

The Court plays an important role in ensuring that those who have committed the gravest crimes cannot escape justice. In addition, the ICC and the Rome Statute system have a role in the broader framework of fostering the rule of law. It is States that bear the primary responsibility to investigate and prosecute ICC crimes in accordance with the principle of complementarity that governs the Court's jurisdiction. That relationship received new impetus from the Kampala Review Conference and its preparatory process.

There are persuasive arguments for enhancing national capabilities to try alleged perpetrators. In this respect, we would like to draw attention to the ICC's Legal Tools Project. The Legal Tools database is the leading resource for legal information on core international crimes and will help those who are entrusted with the investigation, prosecution, defence and adjudication of such crimes to work more cost-effectively.

It is of great significance for the victims and their communities to see that perpetrators are brought to justice in their own country. In cases where national trials are not an option for various reasons, the International Criminal Court is an indispensable vehicle for ensuring justice and accountability. It is

also vital to ensure that the issue of victims' participation and protection remains high on the agenda of the International Criminal Court.

Let me finish by reiterating the Nordic countries' firm and long-standing support for the International Criminal Court. As the Court is faced with challenges on many fronts, our resolution to overcome those challenges and to extinguish impunity must be even stronger.

Mr. Rowe (Australia): It is my honour to speak today on behalf of the group of Canada, Australia and New Zealand (CANZ). On behalf of that group, I would like to thank the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for his excellent report (see A/66/309) on the work of the Court over the past year.

The International Criminal Court remains a concrete expression of our collective desire to ensure justice for victims of atrocity and to end impunity for perpetrators of the most serious crimes through a law-based system. Ultimately, and ideally, it is States themselves that have primary responsibility for prosecuting serious crimes committed in their territory or by their nationals. Where this does not happen, the Court acts as a complementary and necessary safety net of accountability.

Over the past year, we have witnessed the growth of political and diplomatic support for the ICC. There are now 119 States parties to the Rome Statute. We warmly welcome the membership this year of Grenada, Tunisia, the Philippines, the Maldives and Cape Verde. We are particularly pleased at the increase in representation in the Rome Statute system from States in the Asian region, which has been underrepresented for some time.

The workload of the Court continues to grow. A landmark development this year was the Security Council's unanimous referral of the situation in Libya to the ICC in the early stages of the conflict. That second Security Council referral demonstrates both its members' respect for the work of the Court and the important role of the Court in international peace and security architecture. CANZ welcomes the statements of the National Transitional Council that it is committed to accountability and to the establishment of a new system of Government in Libya in which individual rights are protected under the rule of law.

Of course, the swift and decisive action taken by the Council with regard to Libya can be contrasted with the Council's inaction in relation to Syria. CANZ takes this opportunity to call on the members of the Security Council to take action to ensure that the perpetrators of Rome Statute crimes that appear to have been committed in Syria are brought to justice.

CANZ welcomes President Ouattara's confirmation of Côte d'Ivoire's acceptance of the Court's jurisdiction as a non-State party under article 12, paragraph 3, of the Rome Statute. We welcome the opening of an investigation with respect to crimes committed since 28 November in Côte d'Ivoire. We hope that fruitful cooperation between Côte d'Ivoire and the ICC on ensuring accountability will contribute to stability in the long term and encourage Côte d'Ivoire to join the Rome Statute as a permanent State party.

Although the Court has never been busier, the cooperation of States in enforcing international arrest warrants remains a challenge. CANZ recognizes the difficulties that non-execution of Court requests can impose on the Court's ability to fulfil its mandate, and urges all States parties to fully comply with Court requests for cooperation.

One of the most important flow-on effects of the ICC has been to act as a catalyst for States to ensure their domestic capacity to deal with crimes under the Rome Statute. In order to link complementarity and broader efforts to fight impunity over the long term, the international community must focus on building the national capacity of States to assume their responsibilities in the justice sector. In this regard, CANZ notes the conclusions of the World Bank's *World Development Report 2011* with respect to the importance of restoring confidence in institutions capable of delivering justice, security and economic reform in order to break the cycle of violence in fragile States.

With the delivery of the closing statements in the trial of Thomas Lubanga, who is charged with having committed war crimes in the Democratic Republic of the Congo, and the imminent delivery of a judgement in that case, the Court is entering a new phase in its development. Six new judges will be elected at the December meeting of States parties. The quality of judges will determine the quality of justice that the Court is able to deliver. We urge States Parties to

consider, when making their decisions with regards to the election, the important pre-trial, trial and appeal work that will be undertaken by the judges of the Court in coming years.

The next Assembly of States Parties will also elect the next prosecutor for a term of nine years. We take this opportunity to thank outgoing Prosecutor Louis Moreno-Ocampo for the firm leadership he has brought to this important position in the Court's formative years.

We are pleased that the search committee process has produced four eminently qualified candidates for the position of Prosecutor. The candidate selected by the Assembly will have the important responsibility of steering the Office of the Prosecutor through the next phase of the Court's development.

Canada, New Zealand and my own country, Australia, are deeply committed to working for the Court's success as an essential safety net for preventing impunity. We call on those States not yet party to the Rome Statute to join us in the fight to end impunity and bring justice to the victims of those crimes that, by their very nature, deeply shock the conscience of all responsible members of the international community.

Mr. Charles (Trinidad and Tobago): I have the honour to make this statement on behalf of the 14 member States of the Caribbean Community (CARICOM).

Today's debate on the report of the International Criminal Court (ICC) (see A/66/309) is an important item on the Assembly's agenda, as it provides an opportunity for all Member States, States parties, States not parties and observer States to assess the work of the Court over the past year. CARICOM therefore express its appreciation to His Excellency Sang-Hyun Song, President of the Court, for presenting the report submitted pursuant to the Relationship Agreement between the United Nations and the ICC.

CARICOM notes the progress made by the Court during the reporting period in the discharge of its mandate set out in the Rome Statute, namely, to bring to justice the perpetrators of those crimes listed in article 5 of the Statute. While we recognize the efforts of the ICC to move forward and bring the cases now before it to a successful completion — as exemplified in the case of *The Prosecutor* v. *Thomas Lubanga Dyilo*, where a verdict is expected by the end of the year — we remain concerned over the lack of progress in some other matters. These matters include, for example, the case of *The Prosecutor* v. *Joseph Kony* and others, where lack of progress is due to the failure to execute four arrest warrants that have been outstanding since July 2005.

CARICOM urges all entities that have binding legal obligations to cooperate with the Court to ensure that the accused persons are arrested and brought to the Court for trial. Any continued failure to resolve this protracted matter would serve to further inhibit the ability of the ICC to bring to justice individuals who are accused of committing grave atrocities that have affected and continue to affect thousands of victims, including women and children.

We also note with appreciation the Prosecutor's attempts to investigate and monitor information on crimes potentially falling within the jurisdiction of the Court beyond the African continent. These involve situations in Latin America, Asia and Eastern Europe. CARICOM views these developments as suitable rebuttals to the arguments proffered by some detractors of the Court who have alleged that the ICC has been targeting Africa while ignoring atrocities committed elsewhere.

The ongoing work of the Court demands that it be provided with sufficient resources to effectively discharge its functions. While we acknowledge the obligations of States parties to the Statute to finance the operations of the Court, CARICOM recalls the provisions of article 115, paragraph (b) of the Statute, which identifies funds of the Court as including:

> "Funds provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council".

CARICOM is of the view that now is an opportune moment for the Court and the United Nations to engage in some form of dialogue on this subject, especially since this is a time when the referral of a new situation by the Security Council has increased pressure on the resources available to the Court.

The ICC is a unique institution in many respects. That is due, in part, to its reliance on the cooperation of States parties, other States and intergovernmental organizations to carry out its work efficiently. We commend the growing areas of cooperation between

the ICC and the United Nations within the framework of the Relationship Agreement between the two organizations. These areas include cooperation in security matters, air transport in support of missions in situation countries and the signing of a memorandum of understanding in order to facilitate the secondment of an expert from the Office of Internal Oversight Services to act as the temporary head of the Independent Oversight Mechanism established by the ICC.

CARICOM also welcomes the increased areas of cooperation between the United Nations and other intergovernmental organizations, including the Organization of American States and the Commonwealth. Such collaboration will assist the ICC and the international community at large in the promotion of peace, security and an end to impunity.

Over the past year, we have also witnessed an increase in the number of States that have become adherents to the Rome Statute. We now count among the 119 States parties our sister CARICOM member State of Grenada. We also welcome Cape Verde, the Philippines, the Maldives and Tunisia to the fold. Additional ratifications of the Rome Statute by members of the international community will not only increase the universal reach of the Court, but will also provide further legitimacy to the institution.

The ICC is at a critical period in its history. At the tenth session of the Assembly of States Parties in December, here at the United Nations, a new Prosecutor will be elected. We wish to salute the sterling contribution made by the ICC's first Prosecutor, Mr. Moreno Ocampo, who has served the institution with distinction. We also appreciate the work of the search committee established to assist States parties in identifying a suitable successor to be elected as Prosecutor at the upcoming session.

Six new judges will also be elected in December. CARICOM has endorsed the candidature of Justice Anthony Thomas Aquinas Carmona of Trinidad and Tobago to fill one of the vacancies that will arise on the bench of the ICC. We are fully convinced that Justice Carmona meets all of the requirements laid down in article 36 of the Statute for election as a judge of the ICC, and we would welcome the support of all States parties for his candidature.

Finally, as a region that has played a significant role in advancing the cause of the ICC and international criminal justice as a whole, CARICOM will continue to work with the Court in order to enable it to live up to the expectations of its founding fathers to serve as a bulwark against impunity while safeguarding fundamental human rights.

Mr. Vrailas (European Union): The European Union (EU) and its member States thank the International Criminal Court (ICC) for its seventh annual report to the United Nations, covering the period from 1 August 2010 to 31 July 2011 (see A/66/309).

The European Union is a staunch supporter of the International Criminal Court. Consolidating the rule of law and respect for human rights, as well as preserving peace and strengthening international security, in conformity with the Charter of the United Nations, are of fundamental importance to the Union and a priority for it. The Seychelles, Saint Lucia, the Republic of Moldova, Grenada, Tunisia, the Philippines, Vanuatu, the Maldives and Cape Verde — countries from different regions have joined the circle of States parties to the Rome Statute, bringing its number to 119. The European Union welcomes the new members and pledges to continue its efforts to achieve universality and preserve the integrity of the Rome Statute.

The first Review Conference of the Rome Statute, in Kampala, was a major milestone and, moreover, provided a forum for States, international organizations and representatives of civil society to reaffirm their resolve to promote the Statute, make specific pledges to that end and submit themselves to a stocktaking of international criminal justice. That stocktaking addressed four fundamental issues in the Rome Statute system. That useful exercise culminated in the adoption of two resolutions and a declaration and clearly identified the areas on which we ought to concentrate our efforts.

The Kampala Conference successfully concluded its discussions on the subject of two amendments to the Rome Statute. The first aimed at extending the Court's jurisdiction over additional war crimes in situations of non-international armed conflict, and the second concerned the crime of aggression. The European Union commends the spirit of consensus that prevailed, which enabled a final agreement to be reached.

As it pledged at the Kampala Review Conference, the EU has further reinforced its policy in support of the ICC. This has been translated into important direct

financial assistance to the Court, to civil society and to third States. Nevertheless, the recent report of the ICC, while commendable insofar as it describes the effort that the Court has made in fulfilling its mission, describes the challenges that the ICC is facing. The number of acts of violence that continue to be perpetrated, particularly against women and children, is extremely worrying. The international community must concentrate its efforts to ensure that it is effective in punishing such crimes and preventing them in future.

In this regard, we should recall one of the fundamental principles of the Rome Statute: complementarity, by which it falls first and foremost to each State to investigate and prosecute the presumed perpetrators of the most serious crimes against the international community and by which the Court may exercise its powers only in the event that a State is unable or unwilling to do so. The European Union and its member States are determined to pursue their commitments to this end for the effective implementation of the Rome Statute. Thus we need to reinforce our collective and individual efforts to ensure that the international arrest warrants issued by the ICC are enforced.

In this regard in particular the European Union and its member States also recall that Security Council resolution 1593 (2005) imposes obligations to cooperate with the Court on a State not party, in this case the Sudan. The EU regrets the Sudan's violations of its international obligations and commends the reaffirmation by the Kampala Review Conference of the need for all States parties to fully meet their obligations under Part 9 of the Rome Statute. In that connection, it expresses its concern about the difficulties raised by certain States parties in relation to the enforcement of those obligations.

Unless all the stakeholders in the international community — the States parties and the States not parties, international organizations and civil society — put up a united fight, the objectives of the Rome Statute and, more generally, the purposes and principles of the United Nations Charter with regard to international peace, security and world well-being will not be achieved. Despots who commit acts that are crimes under the Rome Statute will continue to get off scot-free and use their influence to continue their activities unchallenged. As for their victims, they can only hope that justice will be done and that they will receive some sort of compensation.

The support the Court receives from the United Nations is broadly described in the Court's report. The European Union welcomes that support and calls on other international organizations to follow its example by stepping up and formalizing their cooperation. For their part, the European Union and its member States undertake to pursue their efforts in the area of the fight against impunity, notable by giving the Court full diplomatic support and continuing dialogue with its various partners to clear up any misunderstandings and dispel any concerns. It has been relentless in its efforts to date and undertakes to continue them.

Mr. Bambus (Estonia): Let me begin by thanking the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for introducing the seventh annual report of the ICC to the United Nations (see A/66/309).

Estonia aligns itself with the statement just made by the European Union on behalf of its member States.

The Court is indeed busier than ever with its judicial activity, with seven situations under investigation and three trials ongoing, in addition to a wide range of preliminary investigations being carried out in several regions of the world. Estonia is grateful to all the Court's staff for their daily efforts in discharging its mandate to prosecute the perpetrators of the most serious crimes of concern to the international community. Estonia remains steadfastly committed to the principles of the Rome Statute and to promoting the rule of law.

As the President of Estonia said in his statement to the General Assembly in the general debate at its sixty-sixth session, "The rule of law and respect for international law are what will help ravaged and victimized societies to regain their dignity and rebuild their communities" (*see A/66/PV.11, page 48*). Our joint efforts remain crucial in this regard.

My delegation would like to highlight four issues that are significant to the Court's work. These are, first, the importance of pursuing universality of the Rome Statute; secondly, the significance of the upcoming elections of the Prosecutor and judges; thirdly, the need for better coordination in assisting national capacity-building; and fourthly, the importance of engaging

regional organizations and providing information about the activities of the Court.

We are particularly pleased to note the increase in the number of States parties to the Rome Statute with the accession of eight new States since the beginning of the reporting period. This month, Cape Verde became the 119th State party to the Statute, which means that with the next accession the symbolic 120 States — the exact number voting for the Statute in 1998 — will be reached. The steady growth in the number of States parties demonstrates the increasing political will to combat impunity and enforce accountability. Estonia warmly welcomes this trend towards universal adherence to the Rome Statute.

The Court is now entering a period of leadership transition. The election of a new Prosecutor is a crucial decision that will have a huge impact on various aspects of the Court's life. The election process set up by the Bureau is aimed at successfully electing, by consensus, the best-qualified individual for the position. Clearly, the work of the search committee gives valuable input in that regard, and we are pleased to note that all States have respected its mandate. It needs to be emphasized once again that the search committee is technical in nature and has an assisting function only. The final decision lies solely in the hands of the States parties.

The Assembly of States Parties will also elect six judges, which will significantly change the bench's composition. Estonia believes that the efficiency of the Court largely depends on States parties electing judges who are qualified in terms of their judicial expertise and experience in the practice of criminal law. We wish to thank civil society for its efforts in helping States to take informed decisions in that regard.

Among other elections, the new President of the Assembly of States Parties for the next triennium will be elected. At this point, I am pleased to state that after consultations with all regional groups, Estonia has put forward the candidacy of Ambassador Tiina Intelmann for the post of the President of the Assembly of the States Parties to the Rome Statute. If elected, she would be the first woman President and the first to work full time for the Assembly, which would make an additional contribution to its work.

Turning briefly to the issue of complementarity, as we all know, a State can pursue this principle only if it has the necessary legislative and institutional capability to prosecute the crimes covered by the Rome Statute. More needs to be done to better coordinate the efforts of States, the Court, international organizations and civil society in assisting national capacity-building for the effective investigation and prosecution of the most serious crimes. For example, an interactive platform for information sharing in that regard would be a commendable initiative.

Given the role of the ICC in international criminal justice, the positive engagement of regional organizations is one of the keys to the Court's success. The ICC is currently active in many regions of the world via preliminary examinations, while the Court's judicial proceedings are mostly taking place with regard to countries that have specifically requested it to investigate or to situations which the Security Council had referred to the Court. Thus, open and constructive dialogue among the ICC, regional organizations and States is necessary to build confidence and avoid possible misunderstandings. Against that backdrop, we welcome the organization of the regional conferences held this year in Doha and Addis Ababa and encourage further steps in that direction.

In conclusion, I would like to reiterate Estonia's strong and long-standing commitment to an independent and credible International Criminal Court.

Mr. Osman (Sudan) (*spoke in Arabic*): We have studied the report of the International Criminal Court (see A/66/309) very carefully, in particular sections II and III as they refer to my country, the Sudan. We find it astonishing that despite the major important positive developments that occurred in the Sudan, especially in Darfur, the report, like those preceding it, continues to be based on purely political motivations and is filled with information that contradicts the facts.

We find ourselves once more confronted with the issue of politics masquerading as law. Nothing is more dangerous than politicizing international justice at the hands of such a body as the International Criminal Court. Since the first preparatory meetings to negotiate the drafting of its Statute, we have repeatedly warned of the dangers of politicizing this Court and diverting it from its intended objectives.

As the Permanent Representative of Tanzania already mentioned, we, as Africans, in fact participated in all negotiations on the first draft of the Rome Statute. Since then, we have been warning of the importance of keeping international justice separate

from politics so as to prevent some States from using it as a tool to exclude and overlook the acts of some countries, while unjustly punishing other countries. The law itself does not recognize selectivity and double standards.

In principle, linking a political body with a judicial body is a violation of the principles of justice. The best evidence for that may be found in article 13 (b) of the Statute, which discusses the referral of cases by the Security Council to the International Criminal Court under Chapter VII of the Charter. Furthermore, the very referral by the Security Council of any case under Chapter VII is in and of itself a political decision.

I need not elaborate further to the Assembly that since the establishment of the modern State, all have agreed on the importance of separating the judiciary from the political and executive powers. Yet, here today in the twenty-first century, we are combining political and judicial powers. Moreover, as I just mentioned, the very referral of a case by the Security Council to the Court is a political decision disguised as law. I need not elaborate further on the Council's working methods and the mechanisms whereby it adopts resolutions, which the Assembly knows well in view of its continued participation in discussions of such issues as reform of the Security Council and improving its working methods and its decision-making procedures.

The topic has remained a major concern for all Member States of the Organization who have continued, for over two decades now, to meet in order to reform that body; however, to no avail. Given that it was not logical for the Security Council to decide on a resolution, some Council members have exploited article 13 (b) of the Rome Statute and manipulated it to serve their political aims.

Security Council resolution 1593 (2005), which referred the situation in Darfur to the ICC, was a shameful political decision that ignored the fundamentals of the Charter of the United Nations and international law. It also ignored the very important fact that peace is the foundation of justice and that President Omer Hassan A. Al-Bashir was the leader who put an end to one of the longest conflicts in Africa when he signed the Comprehensive Peace Agreement with our brothers in South Sudan. He was the one who enabled them to exercise their right to self-determination. Indeed, President Al-Bashir was the first world leader to recognize that nascent State and to offer it a helping hand. He was also the leader who put an end to the conflict in Darfur through the signing of the Darfur Peace Agreement in Doha, Qatar with the much-appreciated support of our sisterly State Qatar.

Paragraph 25 of the report before the Assembly addresses President Al-Bashir's visits to several States parties to the Rome Statute with the claim that those States had an obligation to cooperate with the International Criminal Court. That interpretation is based on the alleged obligation in article 87 of the Rome Statute. However, the Prosecutor of the Court has overlooked the text of the Statute, specifically article 98, which refers to the importance of respecting the principles and rules of international law and international agreements concerning immunities of Heads of State and high-level Government officials and the well-established fundamentals of international law, which protect the sovereignty of States with respect to their other international obligations, even if those conflict with the Rome Statute.

That well-established principle of international law is understood even by college students. In other words, it refers to the right of the receiving States that hosted our President. Therefore, it is the sovereign right of States, although they may be party to the Rome Statute, to consider their obligations or interests under other regional or international agreements above their obligations under the Rome Statute.

Why have all of those issues been ignored despite the fact that they are specified in article 98 of the Rome Statute? Where is the binding obligation — as per the legal terminology — referred to in the report? To the contrary, article 98, as mentioned above, indicates that the decision to receive His Excellency President Omer Hassan A. Al-Bashir is purely a sovereign matter and thus resides solely in the hands of the receiving country.

It is very clear that the Prosecutor is dealing with the Rome Statute in a selective manner. He picks and chooses the articles that enable him to achieve political gains, while overlooking those that contradict his wishes. My country must therefore, from this rostrum, remind everyone of the importance of their professional commitment to the fundamental principles of the Charter of the Organization concerning respect for international legitimacy and State sovereignty. The

primacy of the Charter of the United Nations above all other law dates back to 1947 and is a major foundation of international law.

That law and the solid fundamental principles of international law concerning the immunity of seated Heads of State and Government have been respected and observed by the International Criminal Court itself, which is an institution that enjoys our respect and appreciation for its continued efforts to issue fair and legal opinions.

Thus, we could hardly react otherwise, when discussing a Head of State who was selected by his people through fair and general elections that were subject to observation by regional and other observer teams from all over the world, and from many international organizations, including the United Nations that affirmed their transparency.

State immunity is a sacred principle that cannot be altered by a newly created mechanism that has yet to find its proper place in international law and has not yet generated merit and credibility for its work through the efforts of its staff and employees.

The basis upon which the Darfur file was referred to the International Criminal Court was politically unfair and unjust. It was created through resolution 1593 (2005) pursuant to article 13 (b) of the Rome Statute, which the Sudan has never ratified. As the members of the Assembly know well, the Vienna Convention on the Law of Treaties specifies that if a State has not signed, ratified or acceded to a certain treaty, it is not bound by the treaty. My country has never ratified the Rome Statute, nor acceded to it or signed it. Thus, in what manner would the Statute be binding upon the Sudan?

From the beginning the Prosecutor's approach was purely political and entirely unrelated to the law or the principles of justice, the most important of which are integrity and impartiality. Those important characteristics must be available and made part of those charged with implementing justice.

The Prosecutor has exceeded his authority with respect to referrals under article 15 of the Rome Statute, which specifies and limits the authority of the Prosecutor. In this case, the Prosecutor has exceeded his authority and engaged in impassioned political and media campaigns. Politics and media activities are not part of the work of the Prosecution. Such political and media campaigns, especially in the Security Council, have taken place each time the Prosecutor has submitted a report or given a briefing. Needless to say, justice has its own sacred approach built upon impartiality, just as politics and media activities have their own approaches and their own styles. Anyone who wants to serve a political agenda is not deserving of being allowed to conduct any judicial activity, and will not be working in the service of justice. The Prosecution would have been better advised to abide by the well-known conduct of judicial professionals. Mixing politics with the law in such a way is actually the true danger that threatens the principle of international justice, because it raises questions about its credibility and will force everybody to abandon it.

In addition, the Prosecution has made it a habit to overlook the facts. It overlooked the fact that peace takes precedence over justice. Justice cannot prevail or maintain its balance unless peace prevails as well, as illustrated by numerous prior experiences in conflict resolution throughout the world. We have seen how in many countries, following the resolution of the conflict, the parties have made consensual efforts towards reconciliation and reparations. The experience of South Africa comes to mind. In that case, the worst and cruellest practices of apartheid took place, with the grossest of violations. However, subsequently, everyone chose peaceful resolution, reconciliation and reparations.

It is therefore not surprising that our mother continent of Africa is being targeted. If ones goes back to the information available, they will find that African leaders make up the overwhelming majority of those targeted by the International Criminal Court. We are the ones paying the price of that misuse of the principle of the concept of universal jurisdiction. In addition to the various imbalances that exist in the working methods of the Security Council, that concept was taken out of its proper context and has been misused through the Rome Statute — in addition to the various imbalances that exist in the work methods of the Security Council.

Texts and articles were misused by certain circles to use the International Criminal Court as a tool to target certain African States and leaders, as if Africa were the sole jurisdiction of the Court. That has led the African Union to adopt the principled position of strongly rejecting that blatant politicization of justice — a position reaffirmed by all summit meetings

of the African Union. Everybody knows this; it is beyond question.

Moreover, the Council also knows well that that position has been supported by a considerable number of major regional organizations and political groups at the United Nations. From this rostrum, I would like to express my appreciation to all member States of those organizations that, although States parties to the Rome Statute, have nevertheless never hesitated to declare their total rejection of the Court's transformation from a legal body to a body for political schemes and extortion far removed from the purposes and objectives for which the Court was created.

What kind of justice, while fixated on events in Africa, completely overlooks the hundreds of thousands of civilians who suffered genocide and were collectively exterminated using the most modern machines of death and destruction in areas beyond the continent? Where are the preconditions for the exercise of jurisdiction as stipulated in article 12 of the Rome Statute?

The Sudan would like to reiterate its firm confidence in the peace-loving nations that, guided by the values of true justice and equality, would never accept the politicization of justice in that fashion, or the diversion of the International Criminal Court so far away from the objectives for which it was founded. We are fully confident that all States Members of the United Nations, including States parties to the Rome Statute, have completely understood the reasonableness and logic of the Sudan's position in refusing to deal with the Court. As I explained through my earlier reference to the Vienna Convention on the Law of Treaties, the Sudan is not a party to the Rome Statute.

In conclusion, let me share the most recent positive developments concerning the resolution of what remains of the conflict in Darfur, which is our main concern. Thanks to the much appreciated efforts of the sisterly State of Qatar and the roles of the African Union and the United Nations, including the assistance of regional and international partners, our ongoing efforts over many years culminated in July in the signing of the Doha Document for Peace in Darfur.

In the spirit of the Doha Document, Mr. Al-Haj Adam Youssef, one of Darfur's most notable leaders and himself a son of Darfur, was appointed Deputy President of the republic. In addition, just two days ago, Khartoum welcomed Mr. Tijani Sese, leader of the Liberation and Justice Movement, which is a signatory to the Doha Document for Peace in Darfur, who has been appointed to head the regional authority of Darfur. In other words, the sons of Darfur are now themselves responsible for Darfur regionally, and at the federal level are represented in the post of Deputy President. One of the main priorities of the regional authority of Darfur is to bring about full peace and stability through urgent development projects focused on development, recovery and reconstruction, including creating an environment conducive to stability and the voluntary return of internally displaced persons.

The Government of the Sudan has also approved the allocation of £2 billion annually as an initial step in order to achieve those objectives. Our sisterly State of Qatar has also announced the allocation of $2 million to assist in the reconstruction of Darfur. In other words, the process of peace, reconstruction and development has already started in Darfur. The Doha Document, which is already being implemented, contains clear guidelines for reconciliation, reparations, justice, settlements and the restoration of the social fabric of Darfur. Would it not be better for the international community to support those efforts, as it has done with other countries that suffered similar conflicts? As I mentioned earlier, it should do so by encouraging reconciliation and the peaceful settlement of disputes.

The Sudan has its own judicial system, well known for its quality, efficiency, integrity and professionalism — a solid legal heritage that has spread beyond the borders of the Sudan itself to several other States. Our legal system is more qualified and capable than any other entity to restore the balance of justice and to address the various claims and grievances arising from the conflict that we have already moved past by signing the Doha Document for Peace in Darfur.

That Document calls for the creation of special tribunals, which will start to work to uphold justice in Darfur. In accordance with the Doha Document, we stand ready to receive international observers from United Nations and other entities to observe the work of the special tribunals as they restore the balance of justice in Darfur.

Mr. Tag-Eldin (Egypt): At the outset, I would like to express Egypt's appreciation to the President of the International Criminal Court (ICC) for submitting

the report under consideration today (A/66/309), and to the Court for playing an important role in the development of concepts of international criminal law to address the heinous crimes committed against peoples and societies and to fight impunity.

At this time of fundamental change in the Middle East, adhering to the principles of the Rome Statute and other international human rights instruments sends a strong and unequivocal message to the international community that we have to embrace these shifting times and commit to human rights and the rule of law. During the past few months, Egypt has demonstrated its unflinching commitment to enter into a new era in which society is guided by clear rules, by the principles of justice and equality before the law and by the practice of respect for human rights and fundamental freedoms.

International criminal tribunals are becoming increasingly important in the enforcement of the rule of law and in promoting universal adherence to international law, international humanitarian law and human rights law, in the service of maintaining international peace and security. It is a well established principle that their role is complementary to that of national judiciaries, which have the primary jurisdiction to prosecute their citizens who commit such crimes. In the meantime, it should be understood that the sovereignty of States entails responsibility, and any State's primary responsibility is to ensure the safety and security of its citizens and protect its people from crimes.

Egypt welcomes the increased engagement of the Court with the League of Arab States, and participated actively in the regional diplomatic conference on the Court convened in May 2011 in Qatar. That conference was the first major event of its kind in the Middle East aimed at providing information on the workings of the Court and its legal framework. Moreover, Egypt continues its constructive dialogue with the Court. We received the Court's Prosecutor, in an effort to enhance cooperation with the Court as a State not party to the Rome Statute.

In the same vein, Egypt took note of the outcomes of the Review Conference of the Rome Statute convened from 31 May to 11 June 2010 in Kampala, at which States parties made significant pledges on a wide range of issues, one of which was to arrive at a definition of the crime of aggression, taking into account the importance of that issue, especially as circumstances and developments on the international scene indicate the need to reach such a definition. That will enable the Court to exercise its jurisdiction over that crime along the lines of the other crimes falling within its jurisdiction.

The Court can also benefit from the ongoing discussions in the International Law Commission on the immunity of State officials from foreign criminal jurisdiction, with a view to enriching dialogue and exchange of views among the international legal and judicial bodies working in the framework of multilateralism, which should enhance conformity and complementarity in the work of those bodies.

Egypt also stresses that the International Criminal Court should continue to pursue a balanced approach in its work by adopting a policy that accentuates its judicial nature, so as to ensure its impartiality and independence and allow the Court to assume its legal and moral obligations. Furthermore, the procedures for investigating, gathering evidence and authenticating documents need to be improved, especially with regard to investigating crimes and providing strong material evidence, to confirm the consistency of the crimes committed and those defined in the Statute.

Consequently, Egypt reiterates that the Court should respect the considerations to which I have referred when dealing with the African cases referred to it. The Court should also consider cases from other parts of the world. Otherwise, the continued consideration of cases focused on one region of the world may give the mistaken impression that crimes against humanity are being committed only in Africa or that the Court does not target other regions where those crimes are also being committed. The Security Council should also take that into consideration when referring cases to the ICC. In that context, Egypt expresses its support to the call of the African Union to the Security Council to defer the processes initiated by the ICC with regard to the cases of the Sudan and Kenya, in accordance with the provisions of article 16 of the Rome Statute.

It is also imperative that the Prosecutor expedite the decision to begin the investigation of the crimes against humanity committed in the occupied Palestinian territory. We reaffirm the responsibility of the international community to follow up the recommendations of the report of the United Nations

Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48), as recommended by the General Assembly in its resolution 64/10, of 5 November 2009, and resolution 64/254, of 26 February 2010. In that regard, the Court should ensure that there is definitively no impunity, as a prerequisite to upholding the word of justice and the establishment of legal norms that we all strive to implement, while consolidating the application of the rule of law to all peoples and communities, without exception.

Mr. Wenaweser (Liechtenstein): I would like to thank the President of the International Criminal Court (ICC) for presenting another rich report on the activities of the Court (A/66/309). The Court continues to have a profound impact in several conflict and post-conflict situations in furtherance of its mandate to fight impunity, in accordance with the Rome Statute. We are particularly pleased that the number of States parties has grown to 119, just one shy of the number of States that voted in favour of the Rome Statute in 1998. We warmly welcome Cape Verde, the Philippines, the Maldives, Tunisia and Grenada as new members of the ICC family.

The new momentum in the quest for the universality of the Rome Statute bears testament to its quality and to the highly professional work carried out by the Court. More and more States are willing to support the Rome Statute system, and accept the jurisdiction of the ICC as complementary to their own primary jurisdiction. While the acceptance of the Court's jurisdiction is not yet universal, the main principle underlying the Rome Statute indeed is. There must be no impunity for the worst crimes under international law. Indeed, in writing the Rome Statute, States merely confirmed and further codified that principle, which was well established in pre-existing international law. States parties to the Rome Statute avail themselves of an additional mechanism by which they can promote the implementation of that principle.

In addition, the Security Council, utilizing its powers under the Charter and under the Rome Statute, may also trigger the Court's jurisdiction. That the Council has chosen to do so twice in the short history of the Court is a further testament to the widespread recognition of the quality of the Court's work.

We would like to encourage all States that have not yet done so to consider the advantages of joining the Rome Statute. The most important of those is that the Court, as an independent international institution, may if necessary conduct investigations and trials concerning crimes committed on the territory of a State party or by its nationals. The Court thus provides protection, through its deterrent effect, as well as a system of accountability and justice with strong regard for the rights of victims.

The ICC is not a mechanism of universal jurisdiction, as has been said before from this rostrum. Rather, it builds mainly on the existing territorial jurisdiction of the State concerned. It also provides protection to States parties with regard to crimes that may be committed on their territories by nationals of other States, including States not party to the Statute. The Court's jurisdiction is, however, complementary to domestic jurisdiction, which takes precedence as long as national authorities are willing and able to conduct genuine investigations and prosecutions.

The ICC is one of the most important tools in the fight against impunity, but it is not the only one. It is States themselves that play the greatest role in that respect. Fighting impunity is, in most cases, best undertaken at the national level, in particular since the ICC and other international mechanisms can only deal with a limited number of cases. It is thus imperative that all States — not just States party to the Rome Statute — ensure domestic capacity and willingness to investigate and prosecute the most serious crimes under international law.

The international community must do better in encouraging and assisting such efforts. We believe that the efforts conducted within the United Nations could be strengthened through better coordination, in particular through the Rule of Law Coordination and Resource Group.

Recent and ongoing events in North Africa and the Middle East have once again highlighted the particular challenges and the indispensable role of justice mechanisms in conflict resolution. The victims of crimes and human rights violations deserve and demand justice, just as much as they deserve and demand peace. As numerous examples in the past have shown, transitional processes must include a justice component as a fundamental building block of sustainable peace. Amnesties for those responsible for the most serious crimes are inherently incompatible with that principle and risk reigniting the cycle of violence.

Earlier this year, the Security Council referred the situation in Libya to the International Criminal Court in resolution 1970 (2011). It did so, for the first time in history, by a unanimous vote. That swift action allowed the Court to initiate its investigations at an early stage and therefore in a most efficient manner. It is our hope, however, that the Council has learned the lessons of the Darfur referral and will, if necessary, insist that the Court receive due cooperation from all States concerned.

Such long-term follow-up is an indispensable part of responsible interaction with the Court, which should not simply be employed as a short-term exit strategy for complex conflict situations. In that context, we also note that the issue of funding of ICC investigations mandated by the Council remains an open question that should be addressed, in accordance with the United Nations Charter and the Rome Statute — and it should be addressed by the General Assembly.

Since this is the last chance I have to speak on this topic while also serving as President of the Assembly of States Parties to the Rome Statute, I would like to take this opportunity to thank all the States parties for the trust they have placed in me over the past three years.

Mr. Zellweger (Switzerland) (*spoke in French*): My delegation would first like to thank President Sang-Hyun Song for presenting the seventh annual report of the International Criminal Court (see A/66/309). We also wish to express our appreciation to all the staff members of the Court for their daily efforts in fulfilling their work, which is constantly growing.

My delegation would like to bring five points to the attention of the General Assembly. First, the International Criminal Court is now an integral part of the international architecture. The year 2011 was marked by the unanimous decision of the Security Council to refer the situation in Libya to the Court in resolution 1970 (2011). That constituted a recognition of the fight against impunity as a precondition for lasting peace. It also reflects the fact that the Court has become a necessary and indispensable instrument for the international community. We welcome that development.

That brings me to my second point. The Court cannot be effective in isolation. We should consider specific proposals on how the Court's activities could be better integrated into the international system. The Court should be considered an essential component of the international community's efforts, particularly in post-conflict situations. It can only develop its full potential in close cooperation with all efforts to restore the rule of law and to deal with the past.

We therefore emphasize how crucially important it is for the Court to be able to cooperate with States, regional and international organizations and civil society, both at the institutional and operational levels. However, it is essential, of course, that such an integration be carried out with full respect for the Court's independence.

Thirdly, with 119 States parties, the Court's march towards universality is inevitable. This should encourage States that still have fears or reservations about it to seriously consider ratifying the Rome Statute and becoming active members of the Assembly of States Parties to the Rome Statute. Moreover, the prompt ratification of the Kampala amendments to the Rome Statute is also necessary in order to help realize the Court's bid for universal standing. Clearly, the inclusion of the crime of aggression in the Rome Statute is a milestone that strengthens *ius contra bellum*. That should be applauded.

Fourthly, Switzerland underscores that the mission of the Court, and the fight against impunity in general, entail real responsibilities. On the one hand, the ICC is responsible for selecting the situations and cases it follows. It must be able to explain why it takes action in some cases and not in others. On the other hand, those who refer situations to the Court also bear a responsibility. If they ask the ICC to become involved in a situation, they must fully assume the consequences. For example, they cannot invoke so-called alternative routes to justice.

More generally, States must show complete consistency in their support for the Court. One cannot applaud the issuance of arrest warrants in one case and criticize them or even fail to execute them in other cases. That does not mean that the Court is above criticism. On the contrary, it must be accountable for its activities to the Assembly of States Parties as well to the international community as a whole.

Fifthly — and this is my last point — the responsibility of States parties to the Court implies that it be given the means to fully carry out its mandate. When the United Nations makes a referral to the Court, thereby increasing its work load, the question arises

whether it would not be reasonable to expect the United Nations to contribute towards covering the related costs.

In conclusion, the Court is a channel for the international criminal law system, which is progressively developing. The fight against impunity pursues a civilizing goal — a more humane and peaceful world. To accomplish its mission, the Court needs our full support. Its activities this year have once again shown us that it fully deserves that support.

Mr. Yamazaki (Japan): I would like to thank President Sang-Hyun Song for his in-depth report on the most recent work of the International Criminal Court (ICC) (see A/66/309). Japan attaches great importance to the rule of law in the international community. In that regard, we have been actively assisting the work of the ICC, which is the only permanent international criminal court contributing to the maintenance of international peace and security through the punishment of the most serious crimes of concern to the international community as a whole.

Our basic stance on the Court can be expressed in the following four words — effectiveness, efficiency, universality and sustainability. Those four criteria will determine the future of the ICC and whether we can universalize it. As the number of the States parties to the Rome Statute increases, safe havens for perpetrators will be reduced and preventive effects should be enhanced.

To encourage more States to become members of the ICC, the Court should produce a solid record of performance by both effectively implementing its activities and efficiently managing the conduct of its work. In order for the Court to realize effectiveness and efficiency, it is important for us to bear in mind that we should not put excessive burdens on the Court, but rather develop it in a systematically sustainable way.

As this year's report by the Court mentions, five new States acceded to or ratified the Rome Statute during the reporting period. The Government of Japan would like to welcome those new members and is looking forward to working with them. Besides those five States, the Asia-Pacific Group has witnessed two States becoming new members of the ICC more recently this year. The Government of Japan would like to extend our warm welcome to the Republic of the Philippines and the Republic of Maldives. Although those two States bring the number of the States parties in the Asia-Pacific Group to 17, we would like to continue especially encouraging the Asia-Pacific States that have not yet done so to accede to or ratify the Statute and join the circle to end impunity.

Let me finally touch upon the issue of cooperation. The experience of the ICC, although relatively short, has reaffirmed the importance of cooperation among the various stakeholders. There is no doubt that cooperation by States is indispensable for the effective and efficient implementation of the Rome Statute, including the arrest and surrender of suspects and the collection of evidence. In those cases where full cooperation has been extended by the States concerned, the ICC is making steady progress. Where such cooperation has not been forthcoming, the ICC faces serious challenges.

Close cooperation among the Court, States parties and civil society is also essential for the further development of the Court. In addition, cooperation between the Court and the United Nations, including the Security Council, is becoming more important, especially as we have witnessed the second referral by the Security Council to the Court this year. The Government of Japan is willing to actively and constructively participate in the discussion on the way forward to further strengthen cooperation.

Japan sincerely hopes that the points it has raised today will be given serious consideration by the ICC, the States parties, other States and civil society.

In conclusion, let me express the sincere appreciation of Japan for the work that the ICC has accomplished to date. It is our hope that the ICC will continue to work diligently in the fight against impunity and to consolidate its credibility and reputation. In that regard, Japan is determined to continue to strengthen its contribution to the ICC and thus to the establishment of the rule of law throughout the international community.

Mr. Limeres (Argentina) (*spoke in Spanish*): Argentina expresses its appreciation and recognition to the President of the International Criminal Court, Sang-Hyun Song, for submitting the report of the International Criminal Court contained in document A/66/309.

The Rome Statute and the International Criminal Court are among the most notable achievements of

multilateral diplomacy, and their contribution to the fight against impunity with regard to crimes against humanity, genocide and war crimes is evident. Only a decade after the adoption of the Rome Statute, the Court is a fully functioning permanent international criminal tribunal.

Since the last report of the International Criminal Court to this Assembly (see A/65/313), in addition to the situations in Uganda; the Democratic Republic of the Congo; the Central African Republic; Darfur, Sudan; and Kenya, the Security Council referred the situation in Libya to the ICC, and Pre-Trial Chamber III authorized the Prosecutor to open an investigation on Côte d'Ivoire. The Prosecutor is also carrying out preliminary examinations of situations in Afghanistan, Colombia, Georgia, Guinea, Honduras, Nigeria, the Republic of Korea and Palestine.

This year finds the Rome Statute and the International Criminal Court even stronger than before. To date, 119 States are parties to the Statute. In this regard, I would like to welcome to the Statute Cape Verde, the Philippines, Grenada, the Maldives and Tunisia.

The other reason for satisfaction is the first ratification of the amendments to the Rome Statute, by San Marino.

Regarding the amendments to the Rome Statute, let us recall that the modification of article 8 has added to the war crimes committed in the context of armed conflicts of a non-international character the use of poison or poisoned weapons, the use of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices, and the use of bullets which expand or flatten easily in the human body. Such amendments are a step forward in the fight against impunity regarding breaches of international humanitarian law.

But it is the amendments on the crime of aggression that determined the historic significance of the 2010 Kampala Review Conference, given that, with the adoption of articles 8 *bis*, 15 *bis* and 15 *ter*, the mandate of the now deleted paragraph 2 of article 5 of the Rome Statute, regarding the crime of aggression, is fulfilled.

The Court will be able to exercise its jurisdiction over crimes of aggression committed one year after the ratification or acceptance of the amendments by 30 States parties and when the parties have adopted a decision, after 1 January 2017, to activate the exercise of jurisdiction of the Court in accordance with the amendment.

We the States parties must commit ourselves to ratifying the amendments adopted in Kampala as soon as possible.

Through resolution 1970 (2011), the Security Council, acting under Chapter VII of the Charter, decided to refer the situation in Libya since 15 February 2011 to the Prosecutor of the Court. We support that decision. But there are two aspects about which I would like to express Argentina's serious concern, given their potential significant impact on the international criminal justice system established with its basis in the Court.

Paragraph 6 of the resolution provides that

> "nationals, current or former officials or personnel from a State outside the Libyan Arab Jamahiriya which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the Libyan Arab Jamahiriya established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State".

The Security Council followed the dangerous precedent in the referral of the case of Darfur, Sudan, of creating for Security Council referrals exceptions to the Court's jurisdiction that are not provided for in the Rome Statute.

The other area in which the Security Council adopted a decision that could have a serious impact on the Court is the contents of paragraph 8 of resolution 1970 (2011), in which the Council recognized that

> "none of the expenses incurred in connection with the referral ... shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute ...".

Such a provision is inconsistent with Article 115 of the Rome Statute, paragraph (b) of which provides that the expenses of the Court and the Assembly of States Parties shall be provided by

> "(f)unds provided by the United Nations, subject to the approval of the General Assembly, in

particular in relation to the expenses incurred due to referrals by the Security Council".

The summary of the annual report of the Court points out that "the growing casework and the referral of a new situation by the Security Council has increased pressure on the resources available to the Court".

Beyond the competence of the General Assembly with regard to budgetary matters, the 2004 Relationship Agreement between the United Nations and the International Criminal Court also governs this issue. In article 13 the Agreement provides that "the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations pursuant to article 115 of the Statute shall be subject to separate arrangements" and that "[t]he Registrar shall inform the Assembly of the making of such arrangements". Nevertheless, the issue of the conditions for the provision of funds by the United Nations in accordance with article 115 of the Rome Statute has not been addressed.

We therefore urge Member States to take up this issue, given that in the present situation, in which the Court is fully functioning in a variety of cases — including those referred to it by the Security Council — the failure to take action with respect to the funds to be provided by the United Nations by virtue of article 115 of the Statute will only have a negative impact on the cases currently before the Court and on the proprio motu action of the Prosecutor.

The International Criminal Court is the first permanent international criminal tribunal. For the full exercise of its jurisdiction, the cooperation of States, in particular States parties, is required. The report of the Court indicates that warrants of arrest are outstanding for a total of 12 suspects and that the cooperation of States in bringing these persons to justice continues to be a key condition for the effective implementation of the Court's mandate.

We should recall that Part 9 of the Rome Statute establishes obligations for the States parties. We must therefore strengthen our efforts to ensure full cooperation with the Court, in particular in the enforcement of Court decisions and the execution of warrants of arrest.

I shall finish by recalling the goals and purposes of the Rome Statute, as stated in the Kampala Declaration:

> "the noble mission and the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter of the United Nations",

and to reiterate, once again, the firm commitment of Argentina to the International Criminal Court.

Mrs. Morgan (Mexico) (*spoke in Spanish*): Mexico wishes to thank the President of the International Criminal Court, Judge Sang-Hyun Song, for his presentation of the seventh annual report of the Court to the United Nations (see A/66/309).

We welcome the recent accession to and ratification of the Rome Statute of the International Criminal Court by five States. To date, 119 States Members of the United Nations have become States parties to the Rome Statute, which demonstrates the clear trend towards the universalization of the Statute.

In the nine years since the operationalization of the new judiciary system created by the Rome Statute, we have seen the International Criminal Court gradually consolidate its commitment to end impunity for the commission of the most serious crimes with international importance. This year will be especially representative, since it will mark the conclusion of the first trial undertaken by the Court since its creation. The *Lubanga* case will undoubtedly constitute a watershed in international justice, since it becomes the first case to be tried by a permanent international criminal tribunal. Mexico welcomes that and the other advances in the Court's judicial work, as detailed in the report (see A/66/309).

Despite the foregoing, and despite the Court's immense efforts, there are still important challenges that we the States parties to the Rome Statute must resolve.

To ensure the efficacy of the Court's endeavours in the investigation and prosecution of crimes, we Member States must ensure that outstanding arrest warrants are executed and that there is cooperation with the authorities of the Court. We believe it is

relevant to emphasize that States' full cooperation with the Court is a fundamental requirement so that it can carry out the mandate for which it was created.

The challenges facing the Court require the collaboration of States and regional and international organizations to fully and effectively solidify the Court as an institution, to make it a promoter of the rule of law at the international level and a true model of justice that complements the rule of law within each of its member States.

On the other hand, the coming months will offer an important opportunity to demonstrate the institutional strength of the International Criminal Court. During the tenth session of the Assembly of States Parties, the Court will undergo a change in leadership. The States parties will be asked to elect a new Prosecutor and six judges, who in turn will elect the next President of the Court. The Assembly will also have to examine matters related to governability and the lack of cooperation of States and will have to adopt a budget that reflects the Court's true needs but that also reflects the difficult global economic situation.

Those challenges are not small. The Court will need to demonstrate that, beyond the personalities that have accompanied it in its first steps, it has sufficient institutional strength to meet the judicial challenges in an unfavourable political and economic context.

With respect to the Court's efficiency, one fundamental matter on which all States parties to the Rome Statute will need to agree is the financing of its activities. The Court's mandate must be supported by the funds required for the investigation and prosecution of crimes and that guarantee its institutional functioning.

Equally important to the Court's effectiveness is the primacy of the principle of equity. My delegation firmly believes that international criminal justice does not refer simply to the set of rules that govern international society but that it also implies equity between the States and organizations that participate in it. In that respect, my delegation firmly supports the idea of finding a formula by which international organizations that refer cases to the International Criminal Court can participate, on an equitable basis, in financing its activities.

Other matters relevant to the near-term future of this tribunal have to do with reparations for damages to victims. We will pay attention to developments on this issue in the future.

With regard to integrity, Mexico believes it would be useful to undertake an analysis of the good practices of other international tribunals in order to ensure that the International Criminal Court incorporates experiences of proven success.

Mexico wishes to reiterate its commitment to the International Criminal Court and to strengthening it as an institution. This year, as in previous years, Mexico also introduced a resolution on the Court in the Organization of American States, urging the countries of the region to ratify and implement the Rome Statute and to cooperate with the Court. Mexico has also continued to participate actively in the working group on amendments, where we have presented a draft proposal to include the use of nuclear weapons as a crime falling under the jurisdiction of the Court.

The work of the Court contributes to achieving the goals of maintaining peace and international security that gave rise to the United Nations. It is up to the international community to work in concert to maintain the efficacy, efficiency and integrity of the Rome Statute and to help solidify the Court's position as a model of justice. Mexico reiterates its commitment to that goal.

Mr. Sorreta (Philippines): I am pleased to join in today's debate by affirming and expressing at the very outset the commitment of my country and my people to fighting impunity in all corners of our world.

On 30 August the Philippines became the 117th State to join the Rome Statute with the deposit of our instrument of ratification with the Secretary-General of the United Nations. That was an historic moment for my country and my people. We had stood up to the impunity of colonial rule and a dictatorship. Now we stand with the rest of the world in saying "Never again" to impunity anywhere.

Today we renew that pledge. Respect for and adherence to human rights are cornerstones of any thriving democracy and foundations of a stable and secure global community. It is therefore the responsibility of every individual, and even more so, every State, to promote, uphold and protect human rights.

Today the Philippines says that there should be no space for impunity in our world. Justice and the rule

of law dictate that those who act with impunity must be held accountable. In that regard, the Philippines has launched its candidature for a seat on the International Criminal Court. In Ms. Miriam Defensor Santiago, the Philippines has found someone eminently qualified for that position. We hope that our friends and partners will support our efforts to be part of the Court.

The Philippines welcomes the report of the International Criminal Court on its activities in 2009 and 2010 (see A/65/313), which details the inroads made by the International Criminal Court in the global fight against impunity. We would like to thank Judge Sang-Hyun Song, President of the Court, for his exhaustive report.

We note the Review Conference of the Rome Statute that was held in Kampala. The Kampala Declaration reaffirmed the commitment of States parties to the Rome Statute and to its full implementation, as well as its universality and integrity.

The decision to celebrate 17 July as the Day of International Criminal Justice underscores the importance of the Rome Statute, which was adopted on that historic day in 1998.

The Philippines also notes the stocktaking on international criminal justice held during the Review Conference, which focused on the impact of the Rome Statute system on victims and affected communities, peace and justice, and complementarity and cooperation. The Declaration on Cooperation, the Philippines believes, is vital in helping to provide support and improved assistance to States that seek to enhance their cooperation with the Court.

The Philippines likewise notes that the Court is seized of seven situations and is closely following developments in that regard. The opening of a new investigation, the three ongoing trials, the dismissal of charges against a suspect, the voluntary appearance, pursuant to a summons to appear, of two suspects in the Darfur situation, and the issuance of the second warrant of arrest are significant developments in the work of the Court and demonstrate a firm resolve to address impunity. We note that the execution of the nine outstanding warrants remains one of the pressing challenges.

The Philippines views with interest, together with others, the activities of the Office of the Prosecutor, which continues to work to proactively monitor all information on crimes potentially falling within the jurisdiction of the Court.

On international cooperation, the Philippines welcomes the Court's continued contact with the United Nations Office of Legal Affairs with respect to the testimony of United Nations officials, the provision of information and the mainstreaming of the Court throughout the United Nations system. The Philippines also welcomes the efforts made by the Court to keep itself apprised of institutional and judicial developments with respect to the cabinets of the Secretary-General and the Deputy Secretary-General, the Department of Peacekeeping Operations, the Department of Political Affairs, the Office for the Coordination of Humanitarian Affairs and UNICEF, among others. This demonstrates the vital link between the activities of the United Nations and the mandate of the Court.

The developments set out in the report show the inroads that the Court has achieved in prosecuting individuals responsible for the most serious crimes of international concern. Yet it is clear that challenges continue to confront the Court.

In closing, allow me to say that the Philippines shall do its part as a State party to ensure that Court is able to serve the cause of justice, consistent with its mandate.

Mr. Mukongo Ngay (Democratic Republic of the Congo) (*spoke in French*): My delegation took note of the seventh annual report of the International Criminal Court (ICC) (see A/66/309), as submitted by the President of the Court, Judge Song.

My delegation would like to begin by associating itself with the statement made by the Permanent Representative of the United Republic of Tanzania on behalf of the African States parties.

It is important to recall that the situation in the Democratic Republic of the Congo was referred to the ICC by the Congolese authorities, on behalf of the suffering people of a country in a post-conflict situation, which some rightly termed the first African world war. The ICC was created with the purpose of addressing this kind of situation. That is why the formulation of the Rome Statute, while it may be mere theory for some, represents for the Congolese people a living reality that they have experienced and continue

to experience. Wars and all forms of violence that strip human beings of their dignity and deny the sacredness of life know no boundaries. That reality, which some would like to limit to the Democratic Republic of the Congo so as to sidestep their obligations and responsibilities, is intolerable and unacceptable. This is a matter that concerns us all, and cooperation with the ICC should lie at the heart of our efforts.

With respect to cooperation, we would note once again that the Democratic Republic of the Congo is the first State party to have developed noteworthy and exemplary cooperation with the ICC. The endeavours carried out in that respect by my country make it a model of cooperation with the ICC, as evidenced by several legal instruments. The Democratic Republic of the Congo did not wait for the entry into force of the Rome Statute to ratify it. It did so on 30 March 2002, that is, more than three months before the entry into force of the treaty.

The Democratic Republic of the Congo took the initiative of referring its situation to the ICC as early as 3 March 2004, signed a judicial cooperation agreement with the Court on 6 October 2004, and concluded a legal assistance agreement with the United Nations Organization Mission in the Democratic Republic of the Congo and the ICC. The Democratic Republic of the Congo, with respect to the proceedings before the Court, on three occasions appropriately executed arrest warrants issued by the ICC with respect to Congolese nationals.

It is thus evident that the Democratic Republic of the Congo is convinced that peace and justice are complementary. We are fully aware of the irreplaceable role of justice as a factor in social cohesion, national reconciliation, peace, security and stability. It was through justice that peace returned to the region of Ituri, in North Katanga, and in other parts of the country. It is justice that enables peacebuilding efforts to continue with a view to ensuring security throughout our country.

The seventh annual report of the ICC, which is under discussion today, underscores the growing importance of the work of the Court and of the Rome Statute in the international arena. Along those lines, my delegation notes, with respect to the situation in the Democratic Republic of the Congo, that four cases are currently being considered, two of which are at the preliminary examination stage. My delegation is aware that the Court is only at the beginning stage of the trials and can therefore understand the lengthy nature of the proceedings, but it continues to hope that the first judgements of the Court will be handed down before the end of 2011.

My delegation would also like to take this opportunity to recall its interest in seeing the proposal of holding trials in situ translated into reality. It believes that this would offer the long-hoped-for opportunity to provide a certain moral satisfaction to the victims of the crimes in question as well as a means of deterring potential repeat offenders.

The progress made in international criminal justice has taken place in the context of strong shows of hostility against the Court. My delegation therefore deems it important that the Court implement mechanisms that can put an end to such campaigns, which risk undermining the Court's reputation and jeopardizing its success, even though more than half of the States Members of the United Nations had joined the Court less than five years after its inception.

However, it is equally important that the Court consider the manner in which it functions and reflect on its working methods so as to become more professional and less political, given that politics and justice do not necessarily go hand in hand.

In closing, my delegation would like to welcome to the group of States parties Tunisia, Maldives and Cape Verde, which recently joined the ICC, bringing the number of States parties to 119.

The Review Conference on the Rome Statute of the ICC, which took place in Kampala, Uganda, in May and June 2010, was for member States a useful occasion to reaffirm the achievements made in the context of the Rome Statute and to strengthen the conviction that the ICC is truly a gift of hope for future generations and a significant step forward towards respect for human rights and the rule of law. The Kampala Declaration, in which States reiterated their intention to promote the Rome Statute, its comprehensive application and its universal character; the results achieved by the international criminal justice system; and the amendments made to the Rome Statute, which now contains a definition of the crime of aggression and specifies the conditions in which the Court can exercise its jurisdiction over such crimes, are achievements that we must safeguard with the utmost care.

In conclusion, I should like to reiterate my delegation's wish to ensure the integrity of the ICC and to once again invite those delegations that have not yet done so to join the ICC mechanism, so that together we can contribute to the universality of the combat against impunity.

Mr. Hadi (South Africa): I would like to thank His Excellency Mr. Sang-Hyun Song, President of the International Criminal Court (ICC), and his team of judges not only for the report, but also for their tireless effort in the promotion of international criminal justice, with the ultimate objective of securing a peaceful world for all who live in it.

I associate myself with the statement delivered by the Permanent Representative of Tanzania on behalf of the African States parties to the Rome Statute.

We have taken note of the report of the International Criminal Court to the General Assembly contained in document A/66/309. We welcome new members Grenada, Cape Verde, Tunisia, Moldova and the Philippines to the family of the ICC.

Much has happened since the last time that President Sang-Hyun Song reported to the General Assembly (see A/65/PV.39).

First, post-election violence erupted in Côte d'Ivoire. Subsequently, Côte d'Ivoire submitted a declaration confirming a previous declaration accepting the Court's jurisdiction, in accordance with article 12, paragraph 3, of the Rome Statute. On 3 October, the Pre-Trial Chamber granted the Prosecutor's request for authorization to open investigations proprio motu into the situation in Côte d'Ivoire.

On 26 February, the Security Council referred the situation in Libya to the Court by resolution 1970 (2011). Pursuant to that resolution, the Prosecutor opened investigations in Libya. For its part, the Court has already issued arrest warrants against certain individuals in that particular situation.

In relation to the situation in Kenya, summonses have been issued against six suspects in two separate cases. All six suspects voluntarily appeared before the Court on 7 and 8 April respectively.

We have restated those facts, which are set out in the report, not to shed any insight on any of the cases, but simply to show the magnitude of the challenges facing the Court. As a firm believer in judicial independence, we shall restrict our observation on the judicial functions to a limited number of points.

With respect to the situation in Libya, and indeed other cases, whether past or future, that have been or may be referred to the Court by the Security Council, South Africa is well aware of the financial strain that that places on the International Criminal Court. Given that referral to the Court by the Council is, in accordance with Article 24 of the Charter, read with Article 39, done on behalf of the United Nations and all its Members, it is only fair that the financial burden of that task be borne by all Members of the United Nations, not only States parties to the Statute. Therefore, we hope that some consideration will be given to arriving at an agreement on funding mechanisms that would alleviate the budgetary strain resulting from the referral of cases by the Council.

The most recent cases under consideration by the Court, whether at the trial or the investigation stage, involve situations of internal conflict. That raises yet another challenge, the need to maintain not only actual, but also perceptions of, impartiality. At different forums, including before the Security Council, we have called for balanced investigations by the Office of the Prosecutor to ensure that atrocities committed by all sides in any conflict are investigated and, if necessary, prosecuted.

Needless to say, that imperative has to be balanced with financial considerations, and also with the present prosecutorial policy that only those most responsible should be tried before the ICC. If, however, the Court is seen as a victor's Court, that will have a negative impact on the image, credibility and integrity of the Court as an independent dispenser of justice.

We are pleased to see from the report that the Court will soon bring to a close its first case, the *Lubanga* case.

Further, as in the past, we have taken note of the situations under preliminary analysis by the Prosecutor. In our statement of last year, we called on the Office of the Prosecutor to consider those issues "with the requisite urgency" and come to a decision as soon as possible, particularly those that have been pending for a long period of time (see A/65/PV.41, p.20).

South Africa continues to believe that an important tool in the fight against impunity remains efforts to build national capacity to investigate and prosecute serious crimes that are of concern to the international community. It is thus appropriate that complementarity is at the heart of the Rome Statute. For that reason, South Africa, together with Denmark, continues to exert efforts to mainstream complementarity-related activities.

In June 2012, the term of the current Prosecutor will expire, and the new Prosecutor will have to take up the seat of the chief prosecutor. We wish to pay tribute to the outgoing Prosecutor, Mr. Luis Moreno-Ocampo, for the work that he has done in ushering the Court through its years of infancy. The next Prosecutor will have the task of taking the Court through its teenage years, which, as we all know, can be very testing. The next Prosecutor will have to maintain balanced and independent decision-making in a very tough political climate.

The search committee established by the Bureau has produced a short list of four candidates. We are hopeful that, under the guidance of its President, the Assembly of States Parties will in due course produce a consensual candidate. That task should be made much easier by the fact that the candidates presented by the search committee are of the highest quality.

As we end our statement, we wish to say a special word of gratitude to the President of the Assembly of States Parties, Ambassador Wenaweser, whose term expires in December. We thank him for his tireless effort. In the same breath, we stand ready to welcome Ambassador Intelmann as the President-elect. We are happy to affirm that we stand ready to support her as she leads the Assembly of States Parties into the future.

The International Criminal Court is an institution designed to create a better world through fighting impunity. We will continue to support the Court, so that it can grow from strength to strength.

The meeting rose at 6 p.m.